

200310454-1

Amendment

10

REMARKS

The Applicant wishes to thank the Examiner for the careful consideration of the application, and for allowing claims 44 – 47.

Claims 1 – 47 were in the application. Claims 1, 2, 12, 13, 21, 22, 32, 41, and 42 were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by Walker (US 6,312,106). Claims 3 and 23 were rejected by the Examiner under 35 U.S.C. §103(a) as being unpatentable over Walker in view of Hmelar et al (US 6,183,077). Claims 4, 7 – 10, 14, 17 – 19, 24, 27 – 30, 34, and 37 – 39 were rejected under 35 U.S.C. §103(a) as being unpatentable over Walker in view of Kosugi (US 6,585,345). Claims 5, 15, 25, and 35 were rejected under 35 U.S.C. §103(a) as being unpatentable over Walker and Kosugi, and further in view of Trafton et al. (US 2003/0043243). Claim 6, 16, 26, and 36 were rejected under 35 U.S.C. §103(a) as being unpatentable over Walker and Kosugi, and further in view of Hmelar. Claims 11, 31, and 43 were rejected under 35 U.S.C. §103(a) as being unpatentable over Walker in view of Haines (US 6,808,255). Claims 20 and 40 were rejected under 35 U.S.C. §103(a) as being unpatentable over Walker and Kosugi, and further in view of Haines. Claims 44 – 47 were allowed by the Examiner.

It is noted by the Applicant that Walker (US 6,312,106), relied upon by the Examiner as a new grounds of rejection, is the parent application of Walker (US 2002/0030714), which formed the basis of all of the substantive rejections in the office action dated 11/15/2005. The Applicant believes that the content of the specification and drawings of the two Walker references are identical, and therefore will substantially repeat the arguments made in response to the previous office action, although minor claim amendments have been made which the Applicant hopes will help advance prosecution.

200310454-1

Amendment

11

The rejections under 35 U.S.C. §102(b) and 35 U.S.C. §103(a) are respectfully traversed.

The Rejections Under 35 U.S.C. §102(b)

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). MPEP 2131.

Walker (US 6,312,106) is the basis for the Examiner's rejections under 35 U.S.C. §102(b). Contrary to the Examiner's assertion, Walker fails to show a memory device having a body shaped to seal or cork a fill port of a container for a consumable substance.

The Applicant has carefully reviewed Walker and finds that it is silent on how the container is initially filled with a consumable substance (e.g., ink), and on how the filling port is then subsequently sealed. The Applicant believes that the Examiner has read into Walker something that simply isn't there. The Examiner is directed to the Applicant's response in the previous office action mailed November 15, 2005, which fully discusses the absence of a fill port in the Walker references, and which included annotated drawings.

With regard to the Examiner's current rejection, the Examiner seems to be suggesting that the entire ink container, 18, forms a body shaped to "plug" the "fill port" of "container" 16. This interpretation of Walker is however completely unsupported by a careful examination of the specification and drawings.

200310454-1

Amendment

12

First, the Examiner asserts that the body "plugs" the fill port originally used to fill "container" 16. The Examiner is directed to the Walker references, which clearly indicate that item 16 is a printhead, and not a container for a consumable substance. Further, item 32 is not a fill port originally used to fill the "container"; but an ink connection to permit ink flow from the container to the printhead. Finally, element 32 is not "plugged" by the body of the container, but performs an entirely contrary function. The Applicant understands "plug" in the context of application to mean the stoppage of fluid communication; in Walker, fluidic communication is actually *established by* installation of the container, 18, on the receiving station 24.

The Applicant does, however, believe that the claims of the present application may be better clarified and has therefore amended independent claims 1, 14, 21, and 34 to indicate that the memory device is used to "plug" rather than to "seal" the port; further, independent claims 21 and 34 have been further amended to indicate that the memory device is "positioned" in the fill port. Claim 13 has been canceled. No new matter has been added.

Since Walker does not disclose a memory device having a body shaped to seal or cork a fill port of a container for a consumable substance, an element of each of the claims rejected under 35 U.S.C. §102(b) is not present in the reference, and the Applicant therefore requests that the rejections under 35 U.S.C. §102(b) be withdrawn.

200310454-1

Amendment

13

The Rejections Under 35 U.S.C. §103(a)

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). MPEP 2143.03

All of the Examiner's rejections under 35 U.S.C. §103(a) are based on the Examiner's assertion that Walker discloses a memory device having a body shaped to seal or cork a fill port of a container for a consumable substance. As discussed above, the Applicant believes the Examiner has misinterpreted Walker, and that the memory device of Walker performs no such sealing function.

Accordingly, a claim limitation of each of the claims rejected under 35 U.S.C. §103(a) is in fact not present in the cited prior art. The Applicant requests that the rejections of claims 3 – 11, 14 – 20, 23 – 31, 34 – 40, and 43 under 35 U.S.C. §103(a) therefore be withdrawn.


The Applicants believe that the claims remaining in the application are allowable, and favorable action by the Examiner is respectfully requested.

Respectfully submitted,

Hewlett-Packard Company
18110 SE 34th St.
Vancouver, WA 98683
360-212-0769

Brian L. Helterline

By:


Larry D. Baker
Attorney/Agent for Applicant(s)
Reg. No. 39,593